

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

UNITED STATES OF AMERICA, : Case No. 3:06CR076(2)
Plaintiff, :
vs. : District Judge Thomas M. Rose
Magistrate Judge Sharon L. Ovington
EVERETT LEE COX, JR. :
Defendant. :

REPORT AND RECOMMENDATIONS

This case came on for hearing on July 13, 2006. The United States was represented by Assistant United States Attorney Sheila Lafferty and Defendant was represented by Mr. Anthony Cicero. Defendant consented to allowing the undersigned to proceed with the plea hearing.

The parties have entered into a plea agreement which has been filed of record. The undersigned carefully inquired of Defendant regarding his understanding of the agreement as well as his competence to understand the agreement. Having fully inquired, the undersigned Judicial Officer finds that Defendant's tendered pleas of guilty to Counts 1 and 6 of the Indictment is knowing, intelligent and voluntary. Based on the statement of facts as set forth in the plea colloquy the undersigned finds that there is a sufficient factual basis for a finding of guilt as to each count.

It is accordingly recommended that the Court accept the plea of guilty to Counts 1 and 6 of the Indictment and find Defendant guilty as charged in each such Counts of Conspiracy to Make False Statements in Acquisition of Firearms and Transportation of Firearms in Interstate

Commerce in violation of Title 18 U.S.C. § 371 and Transportation of Firearms by Unlicensed Firearm Dealer in Interstate Commerce. The Magistrate Judge advised Defendant of his Constitutional rights, the guideline range applicable to the case but that the District Court would not be bound to sentence within that range as a matter of law.

Pending the Court's acceptance of Defendant's pleas, Defendant has been referred to the Probation Department for a pre-sentence investigation and his conditions of pretrial release have been continued.

July 13, 2006

s/ Sharon L. Ovington
Sharon L. Ovington
United States Magistrate Judge

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within ten days after being served with this Report and Recommendations. Pursuant to Fed. R. Civ. P. 6(e), this period is extended to thirteen days (excluding intervening Saturdays, Sundays, and legal holidays) because this Report is being served by mail. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendations are based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within ten days after being served with a copy thereof.

Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See United States v. Walters*, 638 F. 2d 947 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140 (1985).